

specific 8(a) contract because the concern lacks an element of responsibility or is ineligible for the contract, other than the right set forth in § 124.501(h) to request a formal size determination where SBA cannot verify it to be small.

(d)(1) The SIC code assigned to a sole source 8(a) requirement may not be challenged by another Participant or any other party either to SBA or any administrative forum as part of a bid or contract protest. Only the AA/8(a)BD may appeal a SIC code designation with respect to a sole source 8(a) requirement.

(2) In connection with a competitive 8(a) procurement, any interested party who has been adversely affected by a SIC code designation may appeal the designation to SBA's OHA pursuant to § 121.1103 of this title.

(e) Anyone with information questioning the eligibility of a Participant to continue participation in the 8(a) BD program or for purposes of a specific 8(a) contract may submit such information to SBA under § 124.112(c).

§ 124.518 How can an 8(a) contract be terminated before performance is completed?

(a) *Termination for default.* A decision to terminate a specific 8(a) contract for default can be made by the procuring activity contracting officer after consulting with SBA. The contracting officer must advise SBA of any intent to terminate an 8(a) contract for default in writing before doing so. SBA may provide to the Participant any program benefits reasonably available in order to assist it in avoiding termination for default. SBA will advise the contracting officer of this effort. Any procuring activity contracting officer who believes grounds for termination continue to exist may terminate the 8(a) contract for default, in accordance with the Federal Acquisition Regulations (48 CFR chapter 1). SBA will have no liability for termination costs or reprocurement costs.

(b) *Termination for convenience.* After consulting with SBA, the procuring activity contracting officer may terminate an 8(a) contract for convenience when it is in the best interests of the Government to do so. A termination for convenience is appropriate if any

disadvantaged owner of the Participant performing the contract relinquishes ownership or control of such concern, or enters into any agreement to relinquish such ownership or control, unless a waiver is granted pursuant to § 124.515.

(c) *Substitution of one 8(a) contractor for another.* Where a procuring activity contracting officer demonstrates to SBA that an 8(a) contract will otherwise be terminated for default, SBA may authorize another Participant to complete performance and, in conjunction with the procuring activity, permit novation of the contract without invoking the termination for convenience or waiver provisions of § 124.515.

§ 124.519 Are there any dollar limits on the amount of 8(a) contracts that a Participant may receive?

(a) A Participant (other than one owned by an Indian tribe or an ANC) may not receive sole source 8(a) contract awards where it has received a combined total of competitive and sole source 8(a) contracts in excess of the dollar amount set forth in this section during its participation in the 8(a) BD program.

(1) For a firm having a revenue-based primary SIC code at time of program entry, the limit above which it can no longer receive sole source 8(a) contracts is five times the size standard corresponding to that SIC code as of the date of SBA's acceptance of the requirement for the 8(a) BD program or \$100,000,000, whichever is less.

(2) For a firm having an employee-based primary SIC code at time of program entry, the limit above which it can no longer receive sole source 8(a) contracts is \$100,000,000.

(3) SBA will not consider 8(a) contracts awarded under \$100,000 in determining whether a Participant has reached the limit identified in paragraphs (a)(1) and (a)(2) of this section.

(b) Once the limit is reached, a firm may not receive any more 8(a) sole source contracts, but may remain eligible for competitive 8(a) awards.

(c) The limitation set forth in paragraph (a) of this section will not apply for firms that are current Participants in the 8(a) BD program as of December 31, 1997.